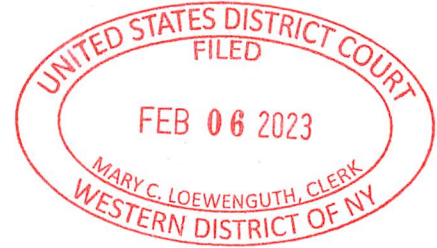


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



ROSALIE AMATORE,

Plaintiff,

v.

21-CV-299 (JLS) (JJM)

C.R. BARD INCORPORATED, and
BARD PERIPHERAL VASCULAR
INCORPORATED,

Defendants.

DECISION AND ORDER

Plaintiff Rosalie Amatore commenced this action on October 20, 2017, seeking relief for injuries she allegedly sustained from a device manufactured by Defendants. *See* Dkt. 1. This Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 20.

On September 28, 2022, Defendants filed a Suggestion of Death Upon the Record of Plaintiff, Dkt. 46, which was personally served upon Lisa Soptelean and Salvatore Amatore. Dkt. 47-48.¹ On January 11, 2023, Defendants moved to dismiss the Complaint for failure to substitute a proper party-plaintiff. Dkt. 49. No responses to Defendants' motion were filed. On January 13, 2023, Judge McCarthy

¹ Soptelean and Amatore are co-executors of Plaintiff's estate. *See* Dkt. 49, at 7.

issued a Report and Recommendation (“R&R”), recommending that this Court grant Defendants’ motion. Dkt. 50. No timely objections were filed.

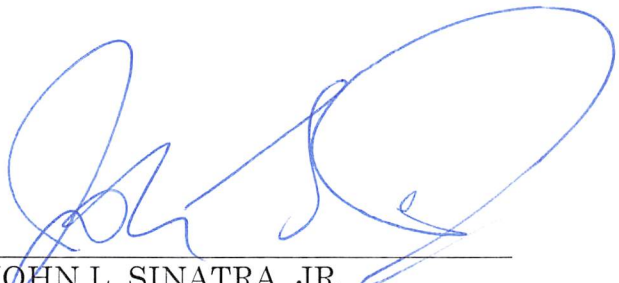
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Although not required to do so, this Court carefully reviewed the R&R. Based on its review, the Court accepts and adopts Judge McCarthy’s recommendation.

For the reasons stated above and in the R&R, the Court GRANTS Defendants’ motion to dismiss (Dkt. 49). The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: February 6, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE